

STAFF REPORT

To: Mayor and Council Members

From: Community and Economic Development Department

Date: November 2, 2004

Subject: Approval of Agreements Related to Improvement Area No. 19A-F in CFD No. 93-1 - Suncal Oak Valley

Background and Analysis:

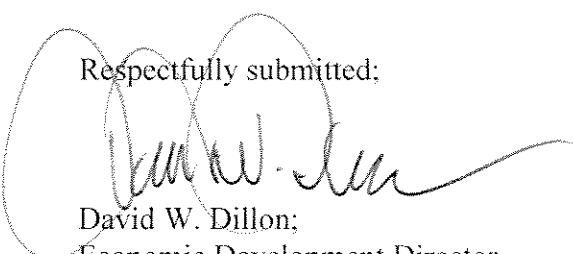
The proposed agreements include a Bond Sale Limitation Agreement and a Facilities and Fee Credit Agreement for the Suncal and Oak Valley Partner's portion of the Oak Valley which includes Improvement area Nos. 19A-19F. Suncal owns Improvement Area Nos. 19A-D and Oak Valley Partners owns Improvement Area Nos. 19 E-F. The proposed Bond Sale Limitation Agreement requires consent of Oak Valley Partners prior to the sale of any bonds for Improvement Area Nos. 19 E-F.

The proposed Facilities and Fee Credit Agreement relates to Improvement Area No. 19 A and establishes a priority for facilities to be constructed by CFD No. 93-1. Critical and Joint Facilities such as improvements to the interchange at Interstate 10 and Oak Valley Parkway and the San Timoteo Sewer to be constructed prior to funding of Individual Facilities such as the internal collector streets and storm drain system. The Agreement also provides for the issuance of City mitigation fee credits for certain facilities constructed by the developer or CFD which are covered by City mitigation fees.

Recommendation:

Staff recommends APPROVAL of the proposed Agreements and AUTHORIZATION of the Mayor to execute the Agreements subject to the authority of Bond counsel and the City Attorney to make non-substantive changes.

Respectfully submitted;



David W. Dillon;
Economic Development Director

BOND SALE LIMITATION AGREEMENT

dated as of October 1, 2004
(Oak Valley Partners, L.P.)

This Bond Sale Limitation Agreement (the "Agreement") is made and entered into this 1st day of October 2004, by and between Community Facilities District No. 93-1 of the City of Beaumont ("CFD No. 93-1") and Oak Valley Partners, a Texas limited partnership (the "Landowner").

RECITALS

WHEREAS, certain owners of property within the proposed boundaries of Improvement Area Nos. 19A through 19F of CFD No. 93-1 (the "Improvement Areas") initiated by written petition and thereafter the City Council on August 17, 2004 initiated proceedings pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended, constituting Sections 53311 *et seq.* of the Government Code of the State of California (respectively, the "Act" and the "Code") to annex land and establish the Improvement Areas; and

WHEREAS, the proceedings to establish the Improvement Areas further involve the approval of a Rate and Method of Apportionment of Special Tax (the "Rate and Method") and an authorized bonded indebtedness following a public hearing and election of qualified electors for each Improvement Area; and

WHEREAS, CFD No. 93-1 presently anticipates the issuance and sale by CFD No. 93-1 of separate series of bonds with respect to each Improvement Area in the aggregate principal amount determined on limitations set by the proceedings and based on discussions with property owners within such Improvement Areas; and

WHEREAS, CFD No. 93-1 and the Landowner desire to enter into this Agreement to set forth their agreement that the City will not issue Bonds for an Improvement Area that includes land to which the Landowner holds title without receipt of written authorization from the Landowner;

NOW, THEREFORE, it is mutually agreed by the parties hereto as follows:

SECTION

1. SALE OF BONDS. CFD No. 93-1 will use its best efforts to issue and sell a series of bonds for an Improvement Area at such time and in such amounts as CFD No. 93-1 may determine is appropriate taking into consideration the proceedings forming the Improvement Areas to which such bonds relate, City policy, marketing considerations and the facilities requirements relating to CFD No. 93-1 and such Improvement Area, and after receiving written authorization from the Landowner, if applicable, to proceed with the sale of such bonds, indicating the amount and timing of such issuance. As of October 1, 2004, the Landowner has title to property in each Improvement Area and CFD No. 93-1 may not issue bonds or levy special taxes in any Improvement Area until Landowner has provided its consent as provided herein.

SECTION 2. AUTHORIZED FACILITIES. The List of Authorized Facilities attached hereto as Exhibit A provides a description of Facilities authorized to be acquired and constructed with the proceeds of Special Tax Bonds for each Improvement Area.

SECTION 3. EFFECTIVE DATE AND TERMINATION. This Agreement shall become effective and in full force and effect as of the date (the "Effective Date") first written above.

SECTION 4. NOTICE. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered shall be deemed to have been received when personally delivered or two days after the deposit of the same in the United States Post Office, registered or certified, postage prepaid, addressed as follows:

If to CFD No. 93-1:	CFD NO. 93-1 c/o CITY OF BEAUMONT 550 East Sixth Street Beaumont, California 92223 Attn: City Manager Tel: (951) 769-8520 Fax: (951) 769-8526
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If to the Landowner:	As indicated in the signature page hereto.
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Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

SECTION 5. ATTORNEY'S FEES. In the event of any action, suit or other proceeding to enforce this Agreement or arising out of the breach of any of its covenants, conditions, agreements or provisions, the prevailing party shall be entitled to have and recover of and from the other party all of such party's reasonable cost and expense of suit, including attorneys' fees, incurred in each and every such action, suit or other proceeding, including any and all appeals or petitions therefrom.

SECTION 6. INTERPRETATION. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provision of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this Agreement. The captions and headings in this Agreement are for convenience only and shall not be referred to for purposes of construing the provisions hereof.

SECTION 7. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, and taken together such counterparts shall constitute the entire Agreement.

SECTION 8. CAPTIONS. Captions to sections of the Agreement are for convenience purposes only and are not part of this Agreement.

SECTION 9 ENTIRE AGREEMENT; AMENDMENTS. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Agreement contains the entire agreement between the parties with respect to the matters provided herein. This Agreement may be amended or modified only in writing signed by each of the parties.

IN WITNESS WHEREOF, the parties hereof have executed this Agreement in the City of Beaumont, State of California, on the date and year first written above.

**COMMUNITY FACILITIES DISTRICT
NO. 93-1**

OAK VALLEY PARTNERS, L.P., a Texas
Limited Partnership
By: Oak Valley-Hunt, Inc., a Texas
Corporation, Managing Partner

By: _____
Mayor

By: _____
Name:
Title:

ATTEST:

By: _____
City Clerk

Address for Notices:

Oak Valley Partners, L.P.
P.O. Box 645
Calimesa, CA 92320
Attn: Project Manager

Exhibit A:

Exhibit B:

EXHIBIT A

List of Authorized Facilities

City of Beaumont
Community Facilities District No. 93-1
Improvement Area Nos. 7 A - 7- E
Authorized Facilities List - Four Seasons

Critical Facilities

Transportation Facilities
Domestic Water Facilities
Recycled Water Facilities
Sewer Transmission and Treatment Facilities
Traffic Signals and Street Lighting Facilities
Public Safety, Public Works and Administrative Facilities
Watershed Management and Storm Drain Facilities
Facility Fees, Plans, Studies and Permits
Planning, Engineering and Environmental Reports

Joint Facilities

Lower Potrero Sewer System

Individual Facilities

Transportation Facilities
Domestic Water
Recycled Water
Sewer Transmission and Treatment
Traffic Signals and Street Lighting
Public Safety, Public Works and Administrative
Watershed Management and Storm Drain Facilities
Facility Fees, Plans and Permits
Planning, Engineering and Environmental Reports
Community Parks and Multipurpose Trails

Services

Street Maintenance and Sweeping
Parkway and Median Landscaping Maintenance
Street Lighting and Traffic Signal Operations and Maintenance
Drainage Facility Operation and Maintenance
Open Space and Multipurpose Trails Maintenance

**CITY OF BEAUMONT
COMMUNITY FACILITIES DISTRICT NO. 93-1
IMPROVEMENT AREA NO. 19A
FACILITIES AND FEE CREDIT AGREEMENT**

This FACILITIES AND FEE CREDIT AGREEMENT (the "Agreement") is dated as of _____, 2004, by and among the CITY OF BEAUMONT, a municipal corporation organized and existing under the laws and Constitution of the State of California, hereinafter referred to as "City," COMMUNITY FACILITIES DISTRICT NO. 93-1 OF THE CITY OF BEAUMONT, a community facilities district created in accordance with Section 53311 et seq of the Government Code of the State of California (hereinafter referred to as "CFD No. 93-1") and LB/L – SUNCAL OAK VALLEY, LLC, a Delaware limited liability company, hereinafter referred to as "Property Owner."

RECITALS

A. WHEREAS, the City has heretofore completed the formation of a Mello-Roos Community Facilities District designated "City of Beaumont Community Facilities District No. 93-1," hereinafter referred to as "CFD No. 93-1," and the City has commenced proceedings to authorize the levy of special taxes and the issuance of bonds with respect to an Improvement Area within said CFD No. 93-1 designated "Improvement Area No. 19A," hereinafter referred to as "Improvement Area No. 19A" or "IA No. 19A," to fund the construction, acquisition and installation of various facilities (the "Facilities") specified in said proceedings.

B. Property Owner is the owner of, or has an option to acquire, approximately 142.6 acres of land in the City (the "Property"), as shown on the map attached as Exhibit A hereto which is within the boundaries of Improvement Area No. 19A of the Community Facilities District and the Property has been determined to benefit from the Facilities.

C. The Facilities proposed to be financed with the proceeds of bonds secured by special taxes levied within Improvement Area 19A (the "Bonds") are listed in Exhibit B hereto. Those Facilities are further characterized in Exhibit B as the Critical Facilities, First Priority Joint Facilities, Second Priority Joint Facilities and Individual Facilities. It is the intent of the City and Property Owner that the Property and Property Owner only pay for the construction and installation of the Facilities once and to ensure that the funding of Facilities through issuance of the Bonds shall satisfy the obligations of the Property and Property Owner with respect to the Facilities to the extent of such funding.

D. The parties hereto desire to provide a financing mechanism for construction or acquisition of all or a portion of the Facilities to the extent proceeds of the Bonds are available.

E. The City and CFD No. 93-1 are authorized under Articles 1 through 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California to enter into a joint exercise of powers agreement in order to facilitate the acquisition and construction of the Facilities.

F. The Property is subject to various development fees established or administered by the City (the "Fees"). The City agrees to credit the Property Owner for (i) all or a portion of the Fees imposed on the Property to the extent of the funding provided by IA No. 19A, (ii) any additional funding provided by the Property Owner for facilities to be funded by the Fees, not to exceed the Property Owner's fair share of the cost of such facilities, as reasonably determined by the City, and (iii) for Property Owner's construction of facilities authorized to be funded by the Fees whether or not such facilities are acquired with the IA No. 19A special taxes or the proceeds of Bonds.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth below, the parties hereto agree as follows:

A G R E E M E N T

1. Recitals. The above recitals and each of them are true and correct and are incorporated herein and become a part of this Agreement.

2. Deposit of Bond Proceeds. The Supplemental Indenture to be entered into in connection with the issuance of the Bonds shall establish with the Trustee of CFD No. 93-1 a Construction Fund (the "Construction Fund") for Improvement Area No. 19A. Upon issuance of the Bonds, the proceeds of the Bonds not required to pay costs of issuance, to fund a reserve fund to be held by the trustee for bonds issued by the Beaumont Financing Authority, and to fund capitalized interest shall be deposited in the Construction Fund and, if necessary due to value-to-lien constraints, in an Escrow Fund (the "Escrow Fund") for Improvement Area No. 19A.

3. Estimated Cost of the Facilities. The estimated cost of the Facilities is listed in Exhibit B.

4. Facilities to be Paid for by CFD No. 93-1. The City and the Property Owner have determined that Improvement Area No. 19A will construct or finance, in whole or in part, a portion of the Facilities pursuant to the terms of this Agreement. With the exception of Individual Facilities, Facilities not funded with the proceeds of the Bonds may be eligible to be financed with the proceeds of bonds of other improvement areas of CFD No. 93-1.

(a) It is expected that, upon the issuance of the Bonds, funds will be available immediately in the Construction Fund and that, if necessary, additional funds will be held in the Escrow Fund. If an Escrow Fund is required, funds will be transferred from the Escrow Fund to the Construction Fund and the satisfaction of certain escrow release conditions specified in the Supplemental Indenture for the Bonds. Amounts deposited in the Construction Fund initially and from subsequent transfers from the Escrow Fund shall be reserved in the amounts and priority with respect to the Facilities described in Exhibit B hereto. The priority for the reservation of amounts in the Construction Fund specified in Exhibit B may be modified with the written consent of the Property Owner and City Manager.

(b) In the event that the actual aggregate costs of the Facilities are less than the estimated aggregate costs of those Facilities set forth in Exhibit B, any surplus moneys

may be applied to redeem a portion of the Bonds or pay current debt service, or used to fund other facilities authorized for Improvement Area No. 19A as may be agreed by the Property Owner and City Manager. No contract for the construction of a Facility shall be awarded by the City or change orders approved by the City unless either (i) the City and CFD No. 93-1 estimate that there are amounts available in the Construction Fund for such contract, including reasonable contingencies, or (ii) Property Owner advances funds to the City and CFD No. 93-1 in the amount of the shortfall, taking in account available amounts in the Construction Fund. Any amounts advanced by Property Owner shall be reimbursed if sufficient funds become available in the Construction Fund. Notwithstanding the foregoing, the Property Owner shall have no obligation to advance funds for costs which exceed available moneys in the Construction Fund except to the extent the Property Owner is obligated for the cost of a Facility under the conditions of approval of the land use entitlements for the Property or under another written agreement entered into by the Property Owner with the City. The City and CFD No. 93-1 shall have no obligation to advance funds for such excess costs and no liability to the Property Owner if Facilities necessary for development of the Property are not built. In the event of a shortfall in moneys in the Construction Fund, the City, CFD No. 93-1 and the Property Owner shall meet and confer as to the reasons that bids have exceeded estimated costs and as to alternatives for financing and completing such Facilities. If the Facility to which excess costs relates is a Facility included in a Beaumont-Cherry Valley Water District ("BCVWD") fee program and if the Property Owner advances funds for such excess costs, the City shall provide written notice to the BCVWD that the Property is deemed to have funded the amount of such excess cost so funded.

(c) If CFD No. 93-1, with the consent of the Property Owner, constructs all or any portion of a Facility which is not presently listed in Exhibit B as a Facility in place of any Facility listed in Exhibit B as a Facility, the City, the Property Owner, and CFD No. 93-1 shall, prior to award of a construction contract therefor, agree on the allocation of funds, if any, related to such Facility and Exhibit B shall be updated to reflect the agreement of the parties.

5. Facilities May Be Constructed by the City. The City may request, and CFD No. 93-1 will pay over from the Construction Fund, as applicable, an amount of bond proceeds for the Facilities described in Exhibit B. The request by the City can only be made following the City's award of a construction contract for the construction of the Facility and the payment shall be disbursed from the Construction Fund only at the times payments under such contract are required. The total amount paid out of the Construction Fund for a Facility described in Exhibit B shall not exceed the actual cost of such Facility.

6. Cost Overruns Resulting from Construction of Facilities. CFD No. 93-1 shall have no liability to the City or the Property Owner for cost overruns (amounts expended in excess of the estimated costs set forth in Exhibit B) incurred on Facilities or inability to construct or complete the Facilities. The City shall have no liability to CFD No. 93-1 or the Property Owner for cost overruns (amounts expended in excess of the estimated costs set forth in Exhibit B) incurred on Facilities or inability to construct or complete the Facilities.

7. Future Facility Fees. The property within Improvement Area No. 19A may be subject to payment of facility fees imposed with respect to certain facilities or

improvements which may be funded and constructed in accordance with State law and for any funding deficiencies in constructing such facilities or improvements. If the City determines it is necessary to impose any fees with respect to property in Improvement Area No. 19A under proceedings adopting the facility fee, the City shall meet and confer with the Property Owner to discuss the extent of the planned improvements and the benefits of the planned improvements to the Property. This Section does not, however, prohibit the City or property owners in the area, including the Property Owner, from forming a new area benefit district for the acquisition or construction of improvements other than the Facilities. This Agreement does not constitute a waiver of any rights Property Owner may have with respect to notice of, or approving or protesting, the imposition of any such facility fee or area benefit district.

8. Eligible Costs. CFD No. 93-1 and the City shall strictly account for the expenditure of bond proceeds according to accepted accounting practices for public agencies in Southern California. It is the intention of the parties that payments from the funds and accounts shall be disbursed only in connection with properly completed payment request forms with appropriate supporting documentation for reasonable costs and expenses paid or incurred including, without limitation, any amounts owing under any construction contract entered into by the City or Property Owner for the Facilities. Administrative costs of the City and CFD No. 93-1 shall include, but are not limited to, the costs of preparing or causing to be prepared by contract the bid documents, all fees and costs incurred in obtaining permits, licenses, rights-of-way or easements, and planning, environmental engineering, legal, fiscal, plan check and inspection fees and land acquisition costs. Administrative costs of the Property Owner with respect to design, engineering and Bid Documents (as defined below) shall include, but are not limited to, the reasonable costs of preparing the bid documents, all reasonable fees and costs incurred in obtaining permits, licenses, rights-of-way or easements, and reasonable planning, environmental, engineering, construction administration and supervision, legal, fiscal, plan check and inspection fees. Upon issuance of the Bonds and submission of applicable invoices, Property Owner shall be reimbursed from the costs of issuance fund (or at the written direction of the Property Owner, the costs may be paid to the parties indicated on such invoices) as a cost of issuance for (i) legal fees and costs and (ii) for special tax consultant fees incurred in connection with formation of Improvement Area No. 19A, establishment of the rate and method of apportionment of special taxes for Improvement Area No. 19A and issuance of the Bonds; provided, however, that the aggregate amount for (i) and (ii) shall not exceed \$250,000.

9. Planning, Design, Engineering and Grading. Any Second Priority Joint Facilities and Individual Facilities may be designed by qualified professionals engaged by the Property Owner, the City or CFD No. 93-1. Critical Facilities and First Priority Joint Facilities shall be designed by qualified professionals engaged by the City or CFD No. 93-1 and shall not be designed by an engineer engaged by the Property Owner, unless approved by the City. The party undertaking the design of a Facility shall design and prepare, or shall cause to be designed and prepared, all designs, detailed bid documents, construction plans, and specifications (the "Bid Documents"), including, but not limited to, system layout drawings and all other construction documents and permits for the applicable Facilities in accordance with the design criteria of the City or other public agency or agencies which will be the ultimate owner of such Facilities. The Bid Documents shall conform to all applicable federal, state and local governmental rules, ordinances, and regulations and all applicable environmental protection laws.

All Bid Documents shall be subject to review and approval by the City Manager and/or his or her designee, and the applicable public agencies. All Bid Documents shall be subject to review by the Property Owner. Preliminary and final plans and specifications for Facilities shall be submitted to the City and the applicable public agencies for review and approval. The Property Owner, the City or CFD No. 93-1, as applicable, shall then obtain the approval of all appropriate acquiring public agencies of the construction plans and specifications and construction documents. The Facilities to be acquired or constructed with the proceeds of bonds of CFD No. 93-1 shall be constructed in accordance with public agency contracting requirements. The costs of the design and construction of the Facilities (including the associated administrative, engineering, inspection and legal costs) shall be paid from bond proceeds.

Subject to the terms of the proposal approved by the City and CFD No. 93-1, the funds expended or advanced to the City by the Property Owner for reasonable engineering and design fees with respect to a Facility and preparation of the Bid Documents for a Facility shall be paid to the Property Owner upon (i) the deposit of the proceeds of the Bonds in the Construction Fund which are not reserved for another Facility, (ii) completion of the Bid Documents for the Facility and (iii) submission by the Property Owner to CFD No. 93-1 of appropriate documentation for payment. Said payment shall be exclusive of any interest on moneys expended by the Property Owner and the Property Owner shall not be paid any amount for interest on moneys expended by the Property Owner. The City and CFD No. 93-1 shall not be required to pay such costs from any funds other than the proceeds of the Bonds deposited in the Construction Fund and not reserved for other Facilities or costs. If for any reason the Bonds are not sold and proceeds received or if proceeds are not available in the Construction Fund for such costs, CFD No. 93-1 shall have no obligation to pay the Property Owner for costs incurred in design and engineering of the Facilities. Upon approval of Bid Documents by the City Manager, or his or her designee, and applicable public agency or agencies and submission of a properly completed payment request form with applicable supporting invoices and documentation, and no later than thirty (30) days thereafter, CFD No. 93-1 shall approve a payment request form as provided by the Indenture relating to the Bonds for payment to the Property Owner from proceeds of the Bonds deposited in the Construction Fund of all reasonable costs incurred by Property Owner for the engineering, design and preparation of the Bid Documents to the extent such amounts have not already been paid to the Property Owner and are not required to fund Critical and First Priority Joint Facilities in accordance with the amounts specified in Exhibit B and subject to the limitations set forth above.

10. Bidding, Contracting and Construction Requirements for Facilities Constructed by City. The provisions of this Section 10 shall apply with respect to any Facilities to be constructed by the City with funding from the proceeds of the Bonds.

(a) Construction Schedule. The Facilities shall be constructed at the earliest practicable date after execution of this Agreement as required to serve new development within Improvement Area No. 19A. Domestic Water System Facilities will be built pursuant to the Master Plan of Facilities and rules and regulations approved for the area by Beaumont-Cherry Valley Water District ("BCVWD") and/or Property Owner. The City and CFD No. 93-1 shall coordinate with the Property Owner to schedule commencement and completion of construction of Facilities, to the extent practicable, consistent with the Property Owner's construction and sales activity and in a manner calculated to not unduly delay progress in

completion of the Facilities and the construction, sale and occupancy of residential dwelling units within IA No. 19A. An initial schedule for some of the facilities is attached hereto as Exhibit C.

(b) Preliminary Coordination Meeting. Property Owner, the City Manager and/or his or her designee and representatives of the applicable local agencies shall meet for purposes hereinafter set forth, upon the written request of the Property Owner (hereinafter the "Preliminary Coordination Meeting") delivered to the City, CFD No. 93-1 and the applicable local agencies. The Preliminary Coordination Meeting shall occur as soon as practicable after the City and CFD No. 93-1 receive said written request. At the Preliminary Coordination Meeting the City Manager, and/or his or her designee, shall provide the Property Owner information and documents required by the Property Owner or its design engineer to prepare the Bid Documents for the applicable Facilities. Said information and documents will include, but will not be limited to, the form of bid documents and specifications, schedules for reimbursement payments, applicable prevailing wage rate, insurance requirements, and bonding requirements. At the Preliminary Coordination Meeting, the City, CFD No. 93-1, the Property Owner and applicable local agencies shall develop the phasing and schedule for construction of the Facilities then planned for construction and shall coordinate their efforts to accomplish the design and construction of such Facilities substantially in accordance with such schedule except as the parties may otherwise agree in writing.

(c) Bidding. The City and/or CFD No. 93-1 will arrange for the bidding of the Facilities within 30 days of final approval by the City of the Bid Documents. The City or CFD No. 93-1 shall solicit bids for the construction of the Facilities to be constructed by the City as set forth herein. The Bid Documents must contain all terms and conditions which would be required to be included in such documents if the City or the acquiring public agencies were to be constructing the Facility as a public works project, including but not limited to the requirement for payment of prevailing wages, insurance requirements, and bonding requirements. All such Bid Documents for the Facilities are to be submitted to the City Manager, and/or his or her designee, and the acquiring public agencies, as applicable for review and approval or rejection a minimum of seven (7) days prior to the solicitation of bids. The City or CFD No. 93-1 shall not advertise for bids for the construction of the Facilities to be constructed by the City prior to the approval of the applicable Bid Documents by the City, subject to prior written notice to the Property Owner. The City Manager, or his or her designee, shall determine the time and place of each bid opening which may be required by law for the construction of the Facilities and shall provide, or make available to, the Property Owner copies of all such bids received.

(d) City Award of Contract. The contract or contracts for the construction of the Facilities for which bidding is required shall be awarded by the City and/or CFD No. 93-1 to the lowest qualified responsible bidder for each contract. The City Manager, and/or his or her designee, shall receive all contracts for Facilities constructed. The City and/or CFD No. 93-1 shall be under no obligation to approve the award of a contract and shall not allow a contract for construction of any Facility to be awarded until each has determined that sufficient uncommitted funds to cover the contract award, including an appropriate contingency and the costs of inspecting and administering the contract are available from proceeds of the Bonds or from cash advances by the Property Owner pursuant to Section 4 above.

(e) Pre-construction Meeting. Prior to the commencement of construction of each Facility, there shall be a meeting (hereinafter the "Preconstruction Meeting") among the Property Owner, the City, CFD No. 93-1 and the applicable public agencies. Thereafter, the Property Owner, the City, CFD No. 93-1 and any applicable local agencies shall schedule construction meetings from time to time as necessary as requested by the Property Owner, the City or CFD No. 93-1 to review the status of construction of the Facility.

(f) Change Orders. Change orders to contracts awarded by the City or CFD No. 93-1 shall be approved by the City Manager or his or her designee, subject to his authority to approve such change order. The City shall provide the Property Owner documentation of approved change orders to contracts for the Facilities described in Exhibit B as soon as practicable and shall be afforded an opportunity to consult with the City Manager and/or his or her designee with regard to the proposed change order. Change orders which exceed the authority of the City Manager must be approved by the City Council. The Property Owner shall be provided prior written notice of the City Manager's and/or his or her designee's recommendation with respect to such change orders. If such change order will be presented to the City Council for its consideration, the Property Owner shall be provided prior written notice of the City Manager's and/or his or her designee's recommendation and prior written notice of the City Council meeting at which such proposed change order or the status of change orders will be considered. If the Property Owner consents to a change order where the adjustment will exceed the aggregate funds then available in the Construction Fund, Property Owner shall advance the shortfall at the time from its own moneys subject to later reimbursement from available funds, if any, subsequently deposited in the Construction Fund.

(g) Status Meetings; Expenditure Reports. The City and CFD No. 93-1 shall provide the Property Owner copies of expenditure reports prepared in connection with construction of the Facilities. The Property Owner shall be given prior notice of, and be permitted to attend status meetings among the City, CFD No. 93-1 and each contractor relating to construction of the Facilities.

(h) Property Owner Advances. To the extent Property Owner advances its own money to cover a shortfall with respect to a Facility, the City and /or CFD No. 93-1 shall deposit said advances in a Contribution Account held by the applicable Trustee and an amount for the Trustee's fee relating to the Contribution Account. The City or CFD No. 93-1, as applicable, shall either (i) reimburse the Property Owner for said advances, or applicable portions thereof, in accordance with this Agreement to the extent any Fees then due have been paid, (ii) afford Property Owner credits against Fees which relate to such Facilities or (iii) in the case of Critical or Joint Facilities which are Master Plan Facilities of the BCVWD, provide the written notice to BCVWD that the Property is deemed to have funded the amount of such excess cost so funded. The City and CFD No. 93-1 shall keep accurate records relating to any advances. No interest shall be included on the reimbursement of advances to the Property Owner.

11. Bidding, Contracting, Construction and Payment Requirements for Facilities Constructed by Owners. If the City and CFD No. 93-1 are not proceeding with the design, bidding or construction of a Facility in accordance with the schedule set forth in Exhibit C, Property Owner may notify the City and CFD No. 93-1 of its intent to proceed with

such design, bidding or construction if the City and CFD No. 93-1 do not demonstrate satisfactory progress towards meeting such schedule within thirty (30) days of Property Owner's notice. Property Owner shall also notify City if it intends to construct a Second Priority Joint Facility or an Individual Facility that will be acquired with the proceeds of the Bonds and the City Manager's prior approval shall be required for any First Priority Joint Facility or Critical Facility to be constructed by Property Owner. This Section 11 shall apply with respect to any Facilities to be constructed by the Property Owner and acquired with the proceeds of the Bonds.

(a) Bidding and Contracting. Upon completion of the Bid Documents for a Facility to be constructed by Property Owner and acquired with the proceeds of the Bonds, Property Owner may proceed to solicit bids for the construction of the Facility and award and administer such contract in accordance with the following requirements:

(i) Property Owner shall solicit bids for the construction of the Facility from at least three (3) qualified contractors, provided Property Owner determines at least three (3) qualified contractors are reasonably available.

(ii) The bidding response time shall not be less than ten (10) working days.

(iii) The City Manager shall be provided a copy of the bid package, bid submittals and tabulation of bid results prior to award of the bid, if feasible.

(iv) Property Owner may authorize changes to construction contracts awarded for the construction of a Facility without the prior approval of the City where such changes are consistent with the approved Plans for the Facility.

(b) Performance and Payment Bonds. Property Owner agrees to comply with all applicable performance and payment bonding requirements of the City (and other applicable public entities and/or public utilities) with respect to the construction of the Facilities to be constructed by Property Owner and acquired by City with proceeds of the Bonds. Performance and payment bonds shall be required of the Property Owner with respect to Facilities to be constructed by Property Owner in accordance with the City's standard subdivision requirement, notwithstanding that moneys may be available in the Construction Fund to pay the Purchase Price (defined below) of a Facility; provided that all contractors and/or subcontractors employed by the Property Owner in connection with the construction of such Facilities to be acquired with proceeds of the Bonds shall provide labor and materials and performance bonds which name the City as an additional insured. Rather than requiring the contractors or subcontractors to provide such bonds, Property Owner may elect to provide same for the benefit of their contractors and subcontractors, subject to their acceptance by the City Council.

(c) Inspection. Upon the City inspector's determination that construction of a Facility has been completed in accordance with the Plans, the City shall immediately notify Property Owner in writing that the construction of such Facility has been satisfactorily completed. No payment of the Final Increment (defined below) of the Purchase Price of a Facility hereunder shall be made by the City to the Property Owner for a Facility until

the Facility has been inspected and found to be completed in accordance with the approved Plans by the City or other applicable public entity or utility and the City is prepared to accept the completed Facility after the expiration of the maintenance or warranty period required by the City (which shall be one year from the date of the final inspection) (the "Acceptance Date"). The City shall make or cause to be made periodic site inspections of the Facilities to be constructed by Property Owner and acquired by City with proceeds of the Bonds. The reasonable costs incurred by the City in inspecting and approving the Facilities to be constructed by Property Owner and acquired by City with proceeds of the Bonds and all related permit and other similar fees of the City applicable to construction of such Facilities shall be eligible costs for reimbursement from the proceeds of the Bonds.

(d) Acquisition of Facilities. Upon completion of a Facility to be constructed by Property Owner and acquired by City with the proceeds of the Bonds, Property Owner hereby agrees to sell the Facility to the City and the City hereby agrees to use amounts in the Construction Fund to pay the Purchase Price thereof to the Property Owner, subject to the terms and conditions hereof. The CFD shall not be obligated to finance the Final Increment of the Purchase Price of any Facility until the Facility is completed and the Acceptance Date for such Facility has occurred; provided that the City agrees hereunder to make payments to the Property Owner of the Base Increment (defined below) of the Purchase Price of a Facility when the Facility is Substantially Complete (defined below). Property Owner acknowledges that the City (or other applicable public agency that will own a Facility) shall not accept a Facility until the entire Facility has been completed. The City acknowledges that a Facility does not have to be accepted by the City (or other applicable public agency that will own a Facility) as a condition precedent to the payment of the Base Increment of the Purchase Price therefor when the Facility has been Substantially Completed. In any event, the City shall not be obligated to pay the Purchase Price for any Facility except from the moneys in the Construction Fund, or, with respect to Second Priority Joint Facilities, from the construction fund of another improvement area.

For purposes of this Agreement the term "Substantially Complete(d)" with respect to a Facility means that such Facility is substantially complete in accordance with its Plans and is available for use by the public for its intended purpose, notwithstanding (i) any final "punch list" items or final completion items still required to be completed, unless such items are required for the safe operation of such Facility. For example, a final completion item that is not required for the safe operation of a street would be the final asphalt cap or final lift.

(e) Payment Requests. In order to receive the Base Increment of the Purchase Price of a Facility, inspection thereof under Section 11(c) shall have been made and the Property Owner shall deliver to the City Manager a Payment Request in the form of Exhibit D hereto for such Facility, together with all supporting documentation evidencing the eligible costs of the Facility. In order to receive the Final Increment of the Purchase Price of a Facility on or following the Acceptance Date, Property Owner shall deliver to the City Manager (i) a Payment Request in the form of Exhibit D hereto for such Facility, together with all supporting documentation evidencing the eligible costs of the Facility not approved in any prior Payment Request submitted for the Facility, (ii) if the property on which the Facility is located is not owned by the City (or other applicable public agency that will own the Facility) at the time of the request, a copy of the recorded documents conveying to the City (or other applicable public

agency that will own the Facility) acceptable title to the real property on, in or over which such Facility is located, as described in Section 15 hereof, (iii) a copy of the recorded notice of completion of such Facility (if applicable), and (iv) to the extent paid for the proceeds of the Bonds, an assignment to the CFD of any reimbursements that may be payable with respect to the Facility, such as public or private utility reimbursements.

The amount to be paid from the Construction Fund with respect to a Facility constructed by Property Owner shall be referred to herein as the "Purchase Price." The Purchase Price of a Facility may include the following substantiated costs, to the extent Property Owner includes such costs in a Payment Request: (i) the costs of the construction (excluding grading) of the Facility; (ii) the costs incurred by the Property Owner in preparing the Plans for such Facility and the related costs of environmental permits required for the Facility; (iii) the fees paid to governmental agencies for, and all other costs incurred in connection with obtaining permits, licenses or other governmental approvals for such Facility; (iv) professional costs incurred by the Property Owner or the City associated with such Facility, such as engineering, legal, inspection, construction staking, materials testing and similar professional services; (v) costs directly related to the construction and/or acquisition of a Facility, such as costs of payment, performance and/or maintenance bonds, and insurance costs (including costs of any title insurance required hereunder); and (vi) cost of acquiring from unrelated third parties any real property or interest therein required to construct or operate the Facility.

Upon receipt of a Payment Request (including all accompanying supporting documentation evidencing the eligible costs), the City Manager shall conduct a review in order to confirm that such request is complete, that such Facility identified therein was constructed in accordance with the Plans therefor, and to verify and approve the eligible costs of such Facility specified in such Payment Request. The City Manager shall also conduct such review as is required in his discretion to confirm the matters certified in the Payment Request. Property Owner agrees to cooperate with the City Manager in conducting each such review and to provide the City Manager with such additional information and documentation as is reasonably necessary for the City Manager to conclude each such review. For any Facilities to be acquired by another public entity or utility, Property Owner shall provide evidence acceptable to the City Manager that such Facilities are acceptable to such entity or utility. Within ten (10) business days of receipt of any Payment Request, the City Manager shall state whether the Payment Request is nevertheless approved and complete for any one or more Facilities and any such Facilities shall be processed for payment under this Section 11(e) notwithstanding such partial denial.

Upon approval of the Payment Request by the City Manager, the City Manager shall sign the Payment Request and forward the same to the Trustee for payment under the applicable provisions of the Indenture, to the extent of funds then on deposit in the Construction Fund. Any approved Payment Request not paid due to an insufficiency of funds in the Construction Fund shall be paid promptly following the deposit into the Construction Fund of proceeds of any investment earnings, special taxes or other amounts transferred to the Construction Fund under the terms of the Indenture.

Subject to the limitations described below, the actual amount to be disbursed for a Facility that has been Substantially Completed shall equal 90% of the Purchase Price of the Facility (the "Base Increment"). The actual amount to be disbursed for a Facility following the

Acceptance Date for the Facility shall equal 100% of the Purchase Price of the Facility less any amounts previously disbursed with respect to the Facility pursuant to an approved Payment Request (the "Final Increment"). Notwithstanding the foregoing, the total amount disbursed from the Construction Fund for each category of Second Priority Joint Facilities or Individual Facilities specified in Exhibit B shall not exceed the corresponding estimated amount for such category except to the extent of savings in other categories, earnings on the investment of funds in the Construction Fund or subject to the approval of an increase in such estimated costs by the City Manager.

12. Capitalized Interest. The CFD No. 93-1 bond proceedings shall provide for twelve (12) months capitalized interest with respect to Improvement Area No. 19A; provided, that the Property Owner may agree, at its sole election, in writing to an alternate amount, not greater than twenty-four (24) months of capitalized interest, after consultation with the City and CFD No. 93-1.

13. Application of Earnings on Funds and Accounts. Earnings on funds and accounts established in connection with CFD No. 93-1 and the Beaumont Financing Authority shall accrue in accordance with the applicable Indenture relating to such funds and accounts. CFD No. 93-1 and the Property Owner agree that the Indenture with respect to the Bonds shall provide that prior to completion of the Project, earnings on the moneys deposited in the Construction Fund shall be retained in the Construction Fund.

Earnings on the moneys deposited in the Reserve Fund for the Authority Bonds shall be applied in accordance with the Authority Indenture, including Section 5.07 thereof. Notwithstanding the foregoing, CFD No. 93-1 shall enter into a Supplemental District Indenture with respect to the issuance of the Bonds which shall provide that to the extent delinquencies in the payment of special taxes in any CFD No. 93-1 Improvement Area diminish the amount of the Authority Reserve Fund earnings that would otherwise accrue to the Residual Account and be paid to the District Trustee and accrue to the benefit of Improvement Area No. 19A, (i) any subsequent payment of such delinquent special taxes or foreclosure proceeds not required for payment of debt service or payment of other amounts due with respect to the applicable Series of District Bonds and (ii) any amounts which shall accrue to the Residual Account and be paid to the District Trustee and be allocable to the Improvement Area which has (or had) delinquent Special Tax payments, shall be applied to compensate the affected Improvement Area or Areas for such lost earnings through a credit to the applicable Special Tax Fund based on the estimated earnings which would have been paid to the Residual Account and been transferred to the District Trustee for such Improvement Area had there not been delinquencies in the payment of Special Taxes for such Improvement Area.

14. Escrow of Bond Proceeds. In the event that the value to lien ratio of properties within Improvement Area No. 19A is less than 3:1 (taking into account the CFD No. 93-1 and other fixed special tax or assessment liens) or such higher amount not greater than 4:1 as the underwriter shall advise the City is necessary to market the bonds of the Beaumont Financing Authority which are payable in whole or in part from the Bonds, the City and CFD No. 93-1 shall cooperate with the Property Owner to structure a financing under which the maximum amount of Beaumont Financing Authority and CFD No. 93-1 bonds may be issued and made available for construction, including establishment of an Escrow Fund of a portion of

bond proceeds with moneys eligible for release from the Escrow Fund at such time as the value to lien ratio of the property within Improvement Area No. 19A has increased to a specified amount, or at such time as other specified criteria evidencing development of the property such as grading certification, blue top certification, recordation of final maps, issuance of building permits, final building inspection, or issuance of certificates of occupancy are satisfied.

15. Conveyance of Title. Property Owner shall dedicate or transfer fee simple title to or an easement over the land or rights-of-way as reasonably determined by the City on and over such property owned by the Property Owner on which any Facility is to be constructed to the City or other appropriate public agencies free of all liens and encumbrances prior to the City's award of the bid with respect to such Facility. Property Owner shall transfer title or cause title to be transferred to the City or other appropriate public agencies by such document or documents as the City and/or the accepting entities may prescribe. As a condition to acceptance of title to any of the land or rights-of-way for any of the Facilities by the City or other appropriate public agencies, title must be free of all liens and encumbrances except easements and other matters of record that will not interfere with construction, use or maintenance of such Facility and the Property Owner agrees to execute all documents necessary therefor, including, but not limited to, release from encumbrance under any mortgages on the Property Owner's property.

16. City Fee Credits. Property Owner shall earn credits against Fees based upon the funding of Facilities and related costs with proceeds of the Bonds and contributions from Property Owner pursuant to this Agreement. The Fee credits shall be available upon issuance of the Bonds and the reservation of corresponding amounts in the Construction Fund. If Property Owner is required to advance any Fees prior to the issuance of the Bonds for which credits will be available, the amount advanced shall be returned to Property Owner upon Property Owner's request, at the time of the issuance of the Bonds and the reservation of corresponding amounts in the Construction Fund. Fee credits may be taken 100% against initial dwelling units until exhausted. Exhibit E identifies the Fee credits to be available upon the issuance of the Bonds based upon the allocation of proceeds of the Bonds specified in Exhibit E. Credits against Fees that exceed the number of dwelling units planned for IA No. 19A may be used by Property Owner in connection with other development within the City. The City and Property Owner may mutually agree to allocate the proceeds of the IA No. 19A Bonds in a manner different than the allocation described in Exhibit E in which case there shall be a commensurate reallocation of the Fee credits. In addition, as set forth in this Agreement, proceeds of the Bonds not required to finance Critical Facilities and Joint Facilities shall be disbursed to the City in satisfaction of the Fees upon Property Owner's submittal to the City of a written disbursement request stating the amount to be disbursed. As the result of the possible requirement of the Property to pay facility fees or area benefit fees in the future, the City agrees that the proceedings for adoption of any fee program adopted in the future shall consider the Facilities financed by CFD No. 93-1 for Improvement Area No. 19A and the extent to which the Property shall be deemed to have fulfilled and mitigated its obligation with respect to the components of the facilities to be financed by the proposed fee program.

17. BCVWD Fee Credits. The City shall disburse funds from the Construction Fund to BCVWD to fund Facilities upon Property Owner's submittal of a disbursement request stating the amount to be disbursed.

The City has entered into an Amended and Restated Joint Financing Agreement (the "Joint Financing Agreement") made and entered into as of December 1, 1999 between CFD No. 93-1 and BCVWD. Section 22 of the Joint Financing Agreement contains provisions regarding connection fee credits and states that the issues of oversizing of facilities and connection fee credits have been addressed in other agreements between the parties and will be addressed in agreement between BCVWD and the property owners participating in CFD No. 93-1 or other financing districts. The Joint Financing Agreement provides that by the funding and construction of facilities through CFD No. 93-1 or another financing district, a developer or its successors and assigns, will be deemed to have fulfilled and mitigated its obligation with respect to the component(s) of such BCVWD fees representing capital facilities charges and conditions covered by the component of such fees relating to the development of such Property due with respect to the type of facility or facilities financed as described in the Joint Financing Agreement. The Joint Financing Agreement provides methods of allocating partial fee credits for each parcel for a component whether the costs of a facility or facilities are less than or greater than the components of the BCVWD fees relating thereto due with respect to the Property. A copy of the Joint Financing Agreement has been provided to Property Owner.

The City has entered into a Cooperative Agreement made and entered into as of March 8, 1993 (the "Cooperative Agreement") by and between the City and BCVWD. Section 5 of the Cooperative Agreement provides as follows:

"Mitigation Fees (excluding annexation fees) shall be waived, reduced and/or credited by the District for the benefit of property participating in any public financing district for facilities for which such Mitigation Fees are collected, to the extent the property provides security for obligations (i.e., bonds, BANs) issued by such public financing district, or as otherwise provided by Development Agreements between individual landowners and the respective water and sewer agencies."

The Joint Financing Agreement and the Cooperative Agreement allow for mitigation agreements between BCVWD and developers within any financing district. In light of the foregoing, if Property Owner receives fee credits from the BCVWD in an amount less than the amount disbursed pursuant to Property Owner's disbursement request the City and CFD No. 93-1 hereby agree that the City and CFD No. 93-1 shall use their best efforts to enforce their respective agreements with BCVWD so that BCVWD affords Property Owner fee credits in accordance with Exhibit C hereto with respect to the amount disbursed (or such greater or lesser amount as shall be available in accordance with the Joint Financing Agreement and Cooperative Agreement with respect to such facilities).

18. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or upon deposit of the same in any United States Post Office, registered or certified, postage prepaid, addressed as follows:

Property Owner:	LB/L – SunCal Oak Valley, LLC
	2392 Morse Avenue
	Irvine, CA 92614
	Attention: Project Manager

CFD No. 93-1:

Community Facilities District No. 93-1
c/o City of Beaumont
550 East Sixth Street
Beaumont, California 92223
Attention: City Manager

City of Beaumont:

City of Beaumont
550 East Sixth Street
Beaumont, California 92223
Attention: City Manager

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party within twenty (20) days of such change.

19. Attorneys' Fees. In the event of any action, suit or other proceeding to enforce this Agreement or arising out of the breach of any of its covenants, conditions, agreements or provisions, the prevailing party shall be entitled to have and recover of and from the other party all of such party's reasonable cost and expense of suit, including attorney's fees, incurred in each and every such action, suit or other proceeding, including any and all appeals or petitions therefrom.

20. Severability. If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

21. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

22. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein.

23. Amendments. This Agreement may be amended or modified only in writing signed by all parties and consistent with the Indenture for CFD No. 93-1.

24. Interpretation. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provision of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement. The captions and headings in this Agreement are for convenience only and shall not be referred to for purposes of construing the provisions hereof.

25. Independent Contractor. In performing any obligations under this Facilities Agreement, the Property Owner is an independent contractor and not the agent or employee of the City or CFD No. 93-1. Neither the City nor CFD No. 93-1 shall be responsible

for making any payments to any contractor, subcontractor, agent, consultant, employee or supplier of the Property Owner.

26. Counterparts. This Agreement may be executed in counterparts, all of which shall be deemed an original.

27. Governing Law. This Agreement shall, in all respects, be governed by the laws of the State of California.

28. Exhibits. The following Exhibits are incorporated by this reference:

Exhibit	Description
A	Map of Property
B	Description of Facilities
C	Facilities Phasing Schedule
D	Payment Request Form
E	Fee Credits Table

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written below.

Date: _____, 2004

CITY OF BEAUMONT

By: _____
Mayor

ATTEST:

By: _____
City Clerk

CITY OF BEAUMONT COMMUNITY
FACILITIES DISTRICT NO. 93-1

By: _____
Mayor of the City of Beaumont, acting
ex officio as the legislative body of
Community Facilities District No. 93-1

ATTEST:

By: _____
City Clerk of the City of Beaumont,
acting ex officio as the legislative body
of Community Facilities District
No. 93-1

LB/L – SUNCAL OAK VALLEY, LLC, a
Delaware limited liability company

By: _____

EXHIBIT A

MAP

EXHIBIT B
DESCRIPTION OF FACILITIES

<u>Facility/Description</u>	<u>Estimated Cost</u>
<u>Critical Facilities (First Priority)¹</u>	
City Program	
Transportation Facilities consisting of Oak Valley interchange	\$2,054,205
Preliminary Engineering Reports relating to Facilities	195,000
Westside Fire Station	613,098
Recycled Water Projects	750,000
City Facilities/San Timoteo Watershed Projects	<u>273,000</u>
Subtotal	\$3,885,303
Domestic Water System	
2650 PZ Storage Reservoir/G and service road	\$2,819,000
24" DIP (includes waterline front footage fee of \$65/lf)	432,000
18" DIP (includes waterline front footage fee of \$65/lf)	765,000
Pressure Reducing Station	55,000
Domestic Water Well	<u>750,000</u>
Subtotal	\$4,821,900
Facility Fees, Plans, Studies and Permits relating to Facilities	<u>\$1,101,102</u>
Total Critical Facilities	\$9,808,305
<u>First Priority Joint Facilities (First Priority)¹</u>	
San Timoteo Sewer No. 1A – Lower Oak Valley	
Move-in	\$10,000
Clearing and Grubbing/AC	2,000
Excavation and Compaction//CY	45,000
Lift Station	500,000
Paving	30,000
Electrical	100,000
Fencing	60,000
Service Road, LF	30,000
Dual 10" PVC Force Main	1,035,000
15" PVC Trunk Main	1,485,000
Pavement Removal and Replacement/LF	7,000
Signs	<u>2,500</u>
Subtotal	\$3,306,500

<u>Facility/Description</u>	<u>Estimated Cost</u>
San Timoteo Sewer No. 3 – Beaumont Mesa	
Move-in/Retire Old Station	\$70,000
Clearing and Grubbing/AC	2,000
Excavation and Compaction/CY	45,000
Lift Station	585,000
Paving	30,000
Electrical	135,000
Fencing	60,000
Service Road, LF	40,000
Dual 14" PVC Force Main	1,360,000
Pipeline Encasement	39,000
Jack and Bore S.R. 60	390,000
Pavement Removal and Replacement/LF	42,000
Signs	<u>2,500</u>
Subtotal	<u>\$2,800,500</u>
Total First Priority Joint Facilities	\$6,107,000

Second Priority Joint Facilities (Second Priority)^{2,3}

A. Street Improvements	\$3,000,000
1. Cherry Valley Boulevard (Sta 59 + 74.56 to Sta 90 + 30.34)	
2. Palmer Avenue (Sta 60 + 04.45 to Sta 84 + 15.02)	
3. Champions Drive (From Sta 31 + 79.29 to Cherry Valley Blvd)	
B. Gas Line Relocation within Oak Valley Parkway	\$800,000
C. Storm Drainage Improvements	\$3,800,000
1. Storm Drainage Crossing "B"	
2. Storm Drain (Cherry Valley Blvd. & Champions Dr.) Infrastructure Lines "B", "G", "G-1", "G-2", "J", "K", "K-1"	
3. Storm Drain Improvements Lines "D", "E" and "F"	
4. Storm Drain Improvements Lines "H" and "I"	
D. Roadway Tunnels	\$1,200,000
1. Cherry Valley Blvd. Tunnel Sta 61+ 85	
2. Cherry Valley Blvd. Tunnel Sta 64.25	
Total Second Priority Joint Facilities	\$8,800,000

Individual Facilities (Second Priority)

Prepaid Facility Fees	
Sewer Connection Fees	\$1,330,602
TUMF Fees	1,516,776

<u>Facility/Description</u>	<u>Estimated Cost</u>
Other Prepaid City Fees	<u>TBD</u>
Total Individual Facilities (excluding Other Prepaid City Fees)	\$2,847,378
Total All Facilities (excluding Other Prepaid City Fees)	\$27,562,683

1/ Funds in the Construction Fund shall be reserved for the Critical and First Priority Joint Facilities and in the estimated costs referenced for the Critical and First Priority Joint Facilities as a first priority for use of proceeds of the Bonds.

2/ Provided funds are reserved in the Construction Fund for the listed Critical Facilities and First Priority Joint Facilities in an amount equal to the estimated costs of such Facilities specified in this Exhibit B, funds may be disbursed from the Construction Fund for Second Priority Joint Facilities and/or Individual Facilities.

3/ A Facility shall be eligible for acquisition pursuant to this Agreement that constitutes a discrete, usable segment, reach or improvement described as a separate item within each category.

EXHIBIT C

INITIAL FACILITIES CONSTRUCTION SCHEDULE

City of Beaumont
Community Facilities District No. 93-1
Preliminary Schedule for Facility Design and Construction
Phase I Facilities Only

- San Timoteo Sewer No. 1A
 - ▷ Engineering, Design 6/04-12/04
 - ▷ Construction 1/05-6/05
- San Timoteo Sewer No. 3
 - ▷ Engineering, Design 1/05-6/05
 - ▷ Construction 7/05-1/06
- Domestic Water Storage Reservoir
 - ▷ Engineering, Design 8/23/04-10/29/04
 - ▷ Construction 11/18/04-10/7/05

EXHIBIT D

FORM OF PAYMENT REQUEST

The undersigned (the "Contracting Party"), hereby requests payment in the total amount of \$_____ for the Facilities or Discrete Component thereof (as defined in the Funding, Facilities and Fee Credit Agreement by and between the City of Beaumont, for Community Facilities District No. 93-1 Improvement Area No. 19A, and LB/L – Suncal Oak Valley, LLC dated as of _____, 2004 (the "Agreement"), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby represents and warrants to the City as follows:

1. He(he) is a duly authorized officer of the Contracting Party, qualified to execute this Payment Request for payment on behalf of the Contracting Party and is knowledgeable as to the matters set forth herein.

2. All costs of the Facilities for which payment is requested hereby are Actual Costs (as defined in the Agreement) and have not been inflated in any respect. The Actual Costs for which payment is requested have not been the subject of any prior payment request submitted to the District.

3. Supporting documentation (such as third party invoices, lien releases and cancelled checks or other evidence of payment) is attached with respect to each cost for which payment is requested.

4. The Facilities for which payment is requested was constructed in accordance with the requirements of the Agreement.

5. The Contracting Party is in compliance with the terms and provisions of the Agreement and no portion of the amount being requested to be paid was previously paid.

6. The Purchase Price for the Facility (a detailed calculation of which is shown in Attachment 1 hereto for each Facility) has been calculated in conformance with the terms of the Agreement.

7. Please pay the Purchase Price to the following entity(ies), if other than the Contracting Party, in the amounts or percentages indicated:

[Insert names of payees and amounts or percentages]

I declare under penalty of perjury that the above representations and warranties are true and correct.

CONTRACTING PARTY:

DISTRICT:

[INSERT ENTITY]

Payment Request Approved for
Submission to Trustee

By: _____
Authorized Representative of Contracting Party City Representative

Date: _____

Date: _____

ATTACHMENT 1
SUMMARY OF FACILITY(IES)
TO BE ACQUIRED AS PART OF PAYMENT REQUEST

<u>Facility</u>	<u>Actual Costs</u>	<u>Disbursement Requested</u>
-----------------	---------------------	-------------------------------

[List here all Facilities
which payment is requested, and attach support documentation]

**EXHIBIT E
FEE CREDIT TABLE**

Improvement Area	BSF \$500,00/DU	ST Sew. No. 1 \$973.86/DU	Sewer Capacity \$2,437.00/DU	Fire Station \$181.00/DU	Other City Fees ¹ \$1,150.38/DU	TUMF \$6,000.00/DU
Critical and Joint Facilities	546.00 DUs	546.00 DUs	0.00	3,387.28 DUs	651.92 DUs	293.20 DUs
Individual Facilities and Reimbursement Credits	0.00	0.00	546.00 DUs	0.00	833.58 DUs	252.80 DUs
Total	546.00 DUs	546.00 DUs	546.00 DUs	3,387.28 DUs	1,485.53 DUs	546.00 DUs

Note: Water Fee Credits Subject to BCVWD Approval, Excludes Deduction for District Oversizing Rule

Facility Cost Allocation	San Timoteo Fac	ST Sew. No. 1	Sewer Capacity	Fire Station	City Mitigation	TUMF	Total
Critical and Joint Facility Bond Proceeds	\$273,000.00	\$531,727.56	0.00	\$613,097.68	\$750,000	\$1,759,223.61	\$3,927,048.85
Critical and Joint Facility Reimbursements	0.00	0.00	00.00	0.00	\$958,929.53	0.00	\$958,929.53
Individual Facilities Bond Proceeds	0.00	0.00	1,330,602.00	0.00	0.00	1,516,776.39	2,847,378.39
Total	\$273,000.00	\$531,727.56	\$1,330,602.00	\$613,097.68	\$1,708,929.53	\$3,276,000.00	\$7,733,356.77

1/ Include traffic signal impact fee (\$176/DU), emergency preparedness fee (\$7.00.38/DU), general plan fee (\$50/DU, railroad crossing fee (\$199/DU), sewer application fee (\$20/DU)